

Nicoletti Hornig & Sweeney

WALL STREET PLAZA
88 PINE STREET
SEVENTH FLOOR
NEW YORK, NY 10005-1801
TELEPHONE 212-220-3830
FACSIMILE 212-220-3780
GENERAL@NICOLETTIHORNIG.COM
WWW.NICOLETTIHORNIG.COM

December 8, 2021

VIA ECF

The Honorable George B. Daniels
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1310
New York, New York 10007-1312

RE: *In re M/V MSC FLAMINIA*
Master File: SDNY No. 12-cv-8892 (GBD) (SLC)
Request to Extend Scheduling Order
NHS File No.: 28000040 JAVN

DEC 13 2021
SO ORDERED:
George B. Daniels
George B. Daniels, U.S.D.J.

Dated: DEC 13 2021

Dear Judge Daniels:

We are the attorneys for Stolt Tank Containers B.V. and Stolt Nielsen USA, Inc. ("Stolt"). We submit this joint letter of request on behalf of all parties that remain in this action.

In this action, Stolt, together with Deltech Corporation ("Deltech"), are defending against damage claims asserted by Conti 11 Container Schiffahrts-GMBH & Co. KG MSC "FLAMINIA" ("Conti 11") and NSB Niederelbe Schifffahrtsgesellschaft MBH & Co. KG ("NSB"), and against damage claims asserted by MSC Mediterranean Shipping Company S.A. ("MSC"). BDP International Inc. ("BDP") is defending against a claim for breach of contract damages asserted by Stolt.

This letter is submitted to respectfully request extension amendments to the Seventh Amended Civil Case Management Plan and Scheduling Order ("Scheduling Order") that is currently in effect. (Doc. 1699). The subject matter of the litigation before the Court is currently focused on issues that relate to damages. Issues concerning the liability of the parties have already been tried and are the subject of an appeal pending in the Second Circuit under docket no. 18-2974. The purpose of this request is to seek a sixty day extension of the remaining deadlines (other than the deadline for the deposition of fact witnesses) including the deadlines for the disclosure of expert witnesses and expert reports. The determination of recoverable damages in this action and the scope of the expert reports may be impacted by the outcome of the appeal pending in the Second Circuit. A status conference with Your Honor is currently scheduled for February 15, 2022. (Doc. 1701).

December 8, 2021

Page 2

In March 2020, the parties jointly requested, and the Court granted, a 90-day extension of the then-pending scheduling order (“First Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1655 and 1656). In June, the parties jointly requested, and the Court granted, a 60-day extension of the then-pending scheduling order (“Second Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1674 and 1675). In September, some of the parties requested, and the Court granted, a 90-day extension of the then-pending scheduling order (“Third Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1679 and 1681). In November, the parties jointly requested, and the Court granted, a 90-day extension of the then-pending scheduling order (“Fourth Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1682 and 1683). In March 2021, the majority of the parties requested, and the Court granted, a 90-day extension of the then-pending scheduling order (“Fifth Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1685 and 1687). In May 2021, the majority of the parties requested, and the Court granted, a 90-day extension of the then-pending scheduling order (“Sixth Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1689 and 1695). In August 2021, some of the parties requested, and the Court granted, a 60-day extension of the then-pending scheduling order (“Seventh Amended Civil Case Management Plan and Scheduling Order”) (Docs. 1698 and 1699). For the reasons stated above, a further extension is needed.

Accordingly, Stolt, Deltech and BDP respectfully request an additional 60-day extension of the current scheduling order deadlines. Conti/NSB and MSC consent to this request.

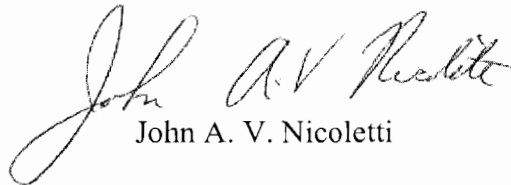
Attached, for Your Honor’s consideration, is an Eighth Amended Civil Case Management Plan and Scheduling Order. All parties thank you for your consideration.

Please contact us if there are any questions.

Respectfully submitted,

NICOLETTI HORNIG & SWEENEY

By:



John A. V. Nicoletti

JAVN/RAN/lek/mm
Attachment

cc (via ECF): All Counsel of Record